

KCC 4742 (K-C 14,442A)
PATENT

1. Rejection of Claims 1, 12-17, 24-26, and 33-37 Under 35 U.S.C. §103(a)

Reconsideration is respectfully requested of the rejection of claims 1, 12-17, 24-26 and 33-37 under 35 U.S.C. §103(a) as being obvious over Haynes et al. (U.S. Patent No. 6,686,303).

It is respectfully submitted that the Haynes et al. patent is not prior art against this pending application under 35 U.S.C. §103(a). As stated by the Examiner, the rejection based upon the Haynes et al. reference might be overcome by showing that the subject matter of the Haynes et al. reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person (M.P.E.P. §§ 706.02(1)(1) and 706.02 (1)(2)). The Examiner has stated that the Haynes et al. patent constitutes prior art only under 35 U.S.C. §102(e).¹ As stated under 35 U.S.C. §103(c), prior art which qualifies only under subsection (e) of section 102 does not preclude patentability where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. The Haynes et al. patent has been assigned to Kimberly-Clark Worldwide, Inc. The instant application has also been assigned to Kimberly-Clark Worldwide, Inc. As evidence of these assignments, enclosed herewith are the following:

- 1) The Notice of Recordation of Assignment Document and Assignment for the Haynes et al. patent (Exhibit A), which sets forth that all inventors listed in the Haynes et al. patent have assigned their rights to Kimberly-Clark Worldwide, Inc.; and

¹35 U.S.C. §102(e)(1) applies to an invention described in "an application for patent, published under §122(b), by another filed in the United States before the invention by the application for patent...."

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2) The Notice of Recordation of Assignment Document and Assignment for the present application (Exhibit B) indicating that all inventors have assigned their rights to Kimberly-Clark Worldwide, Inc. Accordingly, based upon these submissions, it is asserted that the Haynes et al. patent cannot be a proper basis for the rejection of the claims of this application as Haynes et al. cannot be considered as prior art under 35 U.S.C. §103(a).

Since the Haynes et al. reference is cited improperly as prior art, the rejection of claims 1, 12-17, 24-26 and 33-37 under 35 U.S.C. §103(a) is improper and should be withdrawn. As such, claims 1, 12-17, 24-26, and 33-37 are patentable over Haynes et al.

2. Rejection of Claims 19-22, 28-31, and 39-41 Under 35 U.S.C. §103(a)

Reconsideration is requested of the rejection of claims 19-22, 28-31, and 39-41 under 35 U.S.C. §103(a) as being unpatentable over Haynes et al. in view of Henderson (U.S. Patent No. 6,228,265).

For the reasons stated above, Haynes et al. has been improperly cited as prior art against the instant case under 35 U.S.C. §103(a). Because Haynes et al. is cited improperly as prior art, this rejection under 35 U.S.C. §103(a) is improper and should be withdrawn. As such, claims 19-22, 28-31, and 39-41 are patentable over Haynes et al. in view of Henderson.

3. Objection of Claims 2-11, 18, 23, 27, 32, 38, and 42

Reconsideration is requested of the objection of claims 2-11, 18, 23, 27, 32, 38, and 42 as being dependent upon a rejected base claim.

With the removal of the Haynes et al. patent as a reference, Applicants assert that claims 1, 12-17, 24-26 and 33-37 are patentable. As such, dependent claims 2-11, 18, 23, 27, 32, 38 and 42 are also allowable.

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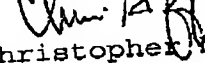
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In view of the foregoing, Applicants respectfully request favorable reconsideration and allowance of all pending claims. The Commissioner is hereby authorized to charge any fee deficiency in connection with this Letter To Patent and Trademark Office to Deposit Account Number 19-1345 in the name of Senniger, Powers, Leavitt & Roedel.

Respectfully submitted,


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*Enclosures